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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,355	04/18/2001	Klaus Abraham-Fuchs	P01,0151	8884
26574	7590	08/02/2005	EXAMINER	
SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473			GOTTSCHALK, MARTIN A	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/837,355	ABRAHAM-FUCHS, KLAUS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Martin A. Gottschalk	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 04/18/2001.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 08/16/2001.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 1-6 have been examined.

### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: It has not been signed and dated. Correction is required.

### ***Claim Objections***

3. Claim1 is objected to because of the following informalities: The word "playing" appears to be a misspelling of "placing". Appropriate correction is required. For the purpose of examination, the Examiner will consider the spelling to be "placing".

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by McAndrew et al (US Pat# 5,517,405; hereinafter McAndrew).

A. As per claim 1, McAndrew discloses a method for automated identification of health risks for a patient, comprising the steps of:

(a) obtaining health-related patient data, as accumulated patient data, for a patient and storing said accumulated data in an electronic data bank (McAndrew: col 8, Ins 39-48);

(b) providing an expert system which is operable on said accumulated data, using a stored medical rule system, to identify a health risk for said patient (McAndrew: col 5, Ins 50-59; col 7, Ins 44-58; Fig 2);

(c) obtaining new health-related data for said patient and entering said new data into said electronic data bank for storage together with said accumulated data (McAndrew: col 8, Ins 59-65, reads on "entering.."; col 10 Ins 33-35, reads on "storing..");

(d) upon every entry of new data into said electronic data bank, simultaneously placing said new data together with said accumulated data in said expert system with said expert system being started upon each entry of new data to operate on said accumulated data together with said new data (McAndrew: col 6, Ins 52-58) to produce a modified health risk evaluation (McAndrew: col 9, In 63 to col 10, In 6; col 2, In 42-48; Fig 2, item 86. The Examiner considers approving or not approving a proposed treatment, or determining if the "...proposed health care...is the correct intervention and level of quality...", to be a form of modified

health risk evaluation. For example, if the level of care is assessed to be too low, the health risk is considered to be relatively high.); and

(e) making said modified health risk evaluation available from said expert system to at least one of the patient and an attending physician (McAndrew: col 2, Ins 64-67, reads on "physician"; col 8, Ins 59-63).

B. As per claim 2, McAndrew discloses a method as claimed in claim 1 wherein the step of entering said new data into said electronic data bank comprises

(a) entering said new data into said electronic data bank at a data entry location (McAndrew: Fig. 1, item 10; col 8, Ins 59-60), and wherein the step of making said modified health risk evaluation available comprises

(b) making said modified health risk evaluation available at said data entry location (McAndrew: col 8, Ins 59-63).

C. As per claim 3 McAndrew discloses a method as claimed in claim 1 comprising the additional step of

(a) producing a therapy proposal for said patient in said expert system in addition to said modified risk evaluation (McAndrew: col 8, Ins 17-21, reads on "...alternate solutions..."), and

(b) making said therapy proposal available to at least one of the patient and an attending physician simultaneously with said modified health risk

evaluation (McAndrew: col 8, Ins 38-39. Note also col 6, Ins 41-42 which discloses the use of multiple windows used for simultaneous display of information.).

D. As per claim 4 McAndrew discloses a method as claimed in claim 1 comprising the additional step of

producing a examination proposal (McAndrew: col 9, In 35-55. The Examiner considers the "questionnaire" produced by the "guided interaction" to be a form of examination proposal.) for said patient in said expert system in addition to said modified risk evaluation, and

making said examination proposal available to at least one of the patient and an attending physician simultaneously with said modified health risk evaluation (McAndrew: col 8, Ins 38-39. Note also col 6, Ins 41-42 which discloses the use of multiple windows for the use of simultaneous display of information.).

E. As per claim 5, it is an apparatus claim which repeats the same limitations of claim 1, the corresponding method claim, as a collection of elements as opposed to a series of process steps. Since the teachings of McAndrew disclose the underlying process steps that constitute the method of claim 1, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claim 5 are rejected for the same reasons given above for claim 1.

The particular correspondence of claim 1 to claim 5 are as follows:

Claim 1a corresponds to claim 5a.

Claim 1b corresponds to claim 5c.

Claim 1c corresponds to claim 5b.

Claim 1d corresponds to claim 5d.

F As per claim 6, McAndrew discloses an apparatus as claimed in claim 5

wherein said electronic data bank has

    a central server associated therewith, and wherein said expert system is integrated in said central server (McAndrew: col 3, Ins 31-37).

G. As per claim 7, McAndrew discloses an apparatus as claimed in claim 5

wherein said electronic data bank comprises

    a plurality of decentralized data banks (McAndrew: col 6, Ins 32-35), said decentralized data banks respectively storing portions of at least said accumulated patient data and wherein said linkage makes the respective portions of said accumulated patient data simultaneously available to said expert system upon each entry of new patient data via said input terminal (McAndrew: col 8, Ins 44-49).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art discloses a method and

apparatus utilizing expert modules for establishing health risks to determine insurance policy premiums (US Pat# 4,975,840).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin A. Gottschalk whose telephone number is (571) 272-7030. The examiner can normally be reached on Mon - Fri 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MG  
06/23/2005



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